IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

MONDAY, THE TWELFTH DAY OF JULY TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT APPEAL NO : 1321 of 1999 and 1627 of 1999

W.P.NO.14723 OF2000

L.P.A.(S.R.)NO.63707 OF 1999

AND

W.A.(S.R.)NO.41012 OF 2000.

W.A.NO.1321 OF 1999

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 17/08/1999 in WPMP NO 9864 OF 1999 IN W.P.NO.: 34994 OF 1998 on the file of the High Court.)

Between:

1 Kakumanu Rayelu S/o. Pitchaiah
R/o. Elchuru Village Samathamuguluru Mandal

Prakasam District

2. Manikala Sivaiah S/o. Anjaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
3 Chalamacherla Bhaskara Rao S/o. Musalaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
4 Chevuturi Gopaiah S/o. Bulleyya
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
5 Palappu Kondaly S/o. Nagulu
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
6 Challuri Chinakotaiah S/o. Peda Kotaiah
R/o. Elchuru Village Samathamuguluru Mandal

Prakasam District
7 Alladi Chinakotaiah S/o. Kotaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
8 Kocherla Chinnaiah S/o. Kotaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
9 Gudipudi Venkateswarlu S/o. Sangeetharao
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
10 Salluri Venkatapathi S/o. Subbaiah
R/o. Elchuru Village Samathamuguluru Mandal
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11 Obbani Nagaiah S/o. Anjaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
12 Chella Ramanaiah S/o. Nagaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
13 Chella Yogaiah S/o. Nagaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
14 Bathula Veeranjaneyulu S/o. Venkateswarlu
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
15 Salluri Nageswar Rao S/o. Rama Subbaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
16 Nakka Yesobu S/o. Mark
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
17 Salluri Prabhudas S/o. Pedavenkaiah
R/o. Elchuru Village Samathamuguluru Mandal
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18 Jirra Devaiah S/o. Venkataiah
R/o. Elchuru Village Samathamuguluru Mandal
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19 Manda Chinna Nagaiah S/o. Lingaiah
R/o. Elchuru Village Samathamuguluru Mandal
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20 Gaddala Anandarao S/o. Samuel
R/o. Elchuru Village Samathamuguluru Mandal
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21 Kalava Santhaiah S/o. Pollaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
22 Salluri Peda Ramaiah S/o. Pedda Kotaiah
R/o. Elchuru Village Samathamuguluru Mandal
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23 Mitta Peda Narasimham S/o. Balanarasu
R/o. Elchuru Village Samathamuguluru Mandal
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24 Alladi Kotaiah S/o. Chinnaiah

R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

25 Alladi Nagaiah S/o. Ramaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

26 Puriparthi Tulasaiah S/o. Venkataswamy
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

27 Challa Thirupalu S/o. Venkata Kotaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

28 Chella Kondaiah S/o. Venkaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

29 Kunchaly Kotaiah S/o. Venkaiah
R/o. Elchuru Village Samathamuguluru Mandal
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30 Kunchalu Venkaiah S/o. Kotaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

31 Challa Srinu S/o. Yogaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

32 Kunchala Kondaiah S/o. Mastan
R/o. Elchuru Village Samathamuguluru Mandal
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33 Kunchala Venkateswarlu S/o. Venkaiah
R/o. Elchuru Village Samathamuguluru Mandal
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34 Kunchala Kotaiah S/o. Venkaiah
R/o. Elchuru Village Samathamuguluru Mandal
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35 Kunchala Babu S/o. Basavaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

36 Shaik Inimalla Moulali S/o. Mohiuddin
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

37 Shaik Chinna Bude S/o. Dariya Hussain
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

38 Shaik Mastan Vali S/o. Moullai
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

39 Machavaram Subbaiah S/o. Brahmaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

40 Challa Govindarajulu S/o. Venkaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

41 Mamidala Nageswara Rao S/o. Chinnaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

42 Shaik Enimella Bade Sayeb S/o. Dariya Hussain
R/o. Elchuru Village Samathamuguluru Mandal
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43 Kunchala Ramaiah S/o. Pitchaiah
R/o. Elchuru Village Samathamuguluru Mandal
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R/o. Elchuru Village Samathamuguluru Mandal
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46 Nipputuri China Venkateswarlu S/o. Peddaiah
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47 Kalva China Lingaiah S/o. Pedamastan
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48 Madipalli Mohan Rao S/o. Venkaiah
R/o. Elchuru Village Samathamuguluru Mandal
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49 Manda Yesu S/o. China Nagaiah
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50 Manda Mastan S/o. Pitchaiah
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51 Pallepagu Papaiah S/o. Alapitchaiah
R/o. Elchuru Village Samathamuguluru Mandal
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52 Chalamacherla Musalaiah S/o. Akulu
R/o. Elchuru Village Samathamuguluru Mandal
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53 Mandal Rajarao S/o. Pitchaiah
R/o. Elchuru Village Samathamuguluru Mandal
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54 Cherukuri Ramaiah S/o. Devadanam
R/o. Elchuru Village Samathamuguluru Mandal
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55 Mandal Yakob S/o. China Nagaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
56 Shaik Saida S/o. Mastan
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
57 Shaik Kasim Pire S/o. Dariya Hussain
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
58 Challa Guruvaiah S/o. Venkateswarlu
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
59 Enimilla Wagi Saheb S/o. Mohuddin Saheb
R/o. Elchuru Village Samathamuguluru Mandal

Prakasam District

60 Shaik Kotekalapudi Chinnevoli S/o. Hera Saheb
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

61 Mandal Lingaiah S/o. Pitchaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

62 Alladi Deva Sahayam S/o. Musalaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

63 Alladi Thamasu S/o. Venkataiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

64 Achi Venkaiah S/o. Chinna Mankaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

65 Chalamacherla Ankamma Rao S/o. Musalaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

66 Chalamacherla Polaiah S/o. Akkulu
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

67 Chalamacherla Ramulu S/o. Akkulu
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

68 Venkatagiri Venkateswarlu S/o. Subbaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

69 Yatagiri Subrahmanyam S/o. Venkateswarlu
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

70 Thummuri Koteswara Rao S/o. Veeraswamy
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

..... APPELLANTS

AND

-

1 Meda Anjaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

2 Angalakudili Koteswar Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

3 Shaik Gali Saheb
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

4 Indla Ramulu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

5 Angalakudeti Bavoji

R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
6 Meda Edukondalu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
7 Podili Chinna Kondelu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
8 Shaik Naxi Saheb
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
9 Rachuri Veeranjaneyulu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
10 Ganienarai Koteswar Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
11 Angalekudili Sayulu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
12 Vallepu Kondal
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
13 Kumba Yellamanda
R/o.Vellacheruvu Elachuru
village Sanathamaguluru Mandal Prakasahm Dist
14 Vallepu Yedikondalu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
15 Vallepu Subba Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
16 Pagadla Anjaneyulu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
17 Pagadala Veeraiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
18 Vallepu Aggi Ramaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
19 Devara Konda Kotaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
20 Vallepu Yedukondalu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
21 Meda Vedukondaly
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
22 Vabhani Veeranjaneyulu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

23 Vabbani Kotaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
24 Kavaragiri Venkateswarlu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
25 Chellmacherla Kotaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
26 Angalakuddla Lakshmaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
27 Maguluri Kondalu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
28 Vusarthi Koteswar Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
29 Meda Chinna Kotaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
30 Podili Peda Kondalu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
31 Kancherla Venkateswarlu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
32 Polaparthi Nageswar Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
33 Rachuri Nageswar Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
34 Rollepu Munnaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
35 Rachuri Bavoji
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
36 Illa Polaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
37 Illa Anamaiah
R/o. Vellacheruvu Elachuru village
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38 Kalasiri Ankaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
39 Chalamacherla Koteswar Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
40 Kalli Guravaiah
R/o. Vellacheruvu Elachuru village

Sanathamaguluru Mandal Prakasahm Dist

41 Komaragiri Kondalu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

42 Chalamecharla Subba Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

43 Tadapala Ankaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

44 Tadapala Kondaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

45 Kancherla Kondaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

46 Nalluri Veeraiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

47 Vadavalli Seshaiay
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

49 Vadavalli Kondalu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

50 Vadavalli Anjaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

51 Vobbani Krishnaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

52 Vobbani Brahmaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

53 Vedavalli Shiva
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

54 Maguluri Koteswara Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

55 Vusarthi Venkateswarlu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

56 Talapala Tirupathaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

57 Talapal Koteswar Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

58 Vabbani Mogalaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
59 Chalamacherla Sreenu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
60 Vabbani Sreenu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
61 Rachuru Sreenu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
62 Challacherla Galaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
63 Katti Kondamma
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
64 Lakkapogy Prakasam
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
65 The Commissioner of Fisheries Govt. of A.P.,
Gaganmahal, Hyderabad
66 The Asst. Director of Fisheries Ongole,

Prakasam Dist
67 Vallalacheruvu Fishermen Coop. Society
Vellalacheruvu Sanatamaguluru Mandal rep.by its
Person Incharge, Asst. Director of Fisheries,
Ongole, Prakasam District
68 Gottipati Narasaiah MLA, Marturu
Prakasam Dist

.....RESPONDENT(S)

Counsel for the Appellants: MR.Y.SUBBHA REDDY

Counsel for the Respondents 1 to 64: MR.O.MANOHER REDDY

Counsel for the Respondents 65 to 67: G.P. for Fisheries

Counsel for the Respondent No.68: none appeared.

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W.A.NO.1627 OF 1999

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 17/08/1999 in W.P.NO.: 34994 OF 1998 on the file of the High Court.)

Between:

1 Kakumanu Rayelu S/o. Pitchaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

2. Manikala Sivaiah S/o. Anjaiah
R/o. Elchuru Village Samathamuguluru Mandal
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3 Chalamacherla Bhaskara Rao S/o. Musalaiah
R/o. Elchuru Village Samathamuguluru Mandal
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4 Chevuturi Gopaiah S/o. Bulleyya
R/o. Elchuru Village Samathamuguluru Mandal
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5 Palappu Kondaly S/o. Nagulu
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6 Challuri Chinakotaiah S/o. Peda Kotaiah
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37 Shaik Chinna Bude S/o. Dariya Hussain

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38 Shaik Mastan Vali S/o. Moullai
R/o. Elchuru Village Samathamuguluru Mandal

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Prakasam District

55 Mandal Yakob S/o. China Nagaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

56 Shaik Saida S/o. Mastan
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

57 Shaik Kasim Pire S/o. Dariya Hussain
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

58 Challa Guruvaiah S/o. Venkateswarlu
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

59 Enimilla Wagi Saheb S/o. Mohuddin Saheb
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

60 Shaik Kotekalapudi Chinnevoli S/o. Hera Saheb
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

61 Mandal Lingaiah S/o. Pitchaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

62 Alladi Deva Sahayam S/o. Musalaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

63 Alladi Thamasu S/o. Venkataiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

64 Achi Venkaiah S/o. Chinna Mankaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

65 Chalamacherla Ankamma Rao S/o. Musalaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

66 Chalamacherla Polaiah S/o. Akkulu
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

67 Chalamacherla Ramulu S/o. Akkulu
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

68 Venkatagiri Venkateswarlu S/o. Subbaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

69 Yatagiri Subrahmanyam S/o. Venkateswarlu
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

70 Thummuri Koteswara Rao S/o. Veeraswamy
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

..... APPELLANTS

AND

1 Meda Anjaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
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13 Kumba Yellamanda
R/o.Vellacheruvu Elachuru
village Sanathamaguluru Mandal Prakasahm Dist
14 Vallepu Yedikondalu
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15 Vallepu Subba Rao
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16 Pagadla Anjaneyulu
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17 Pagadala Veeraiah
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18 Vallepu Aggi Ramaiah
R/o. Vellacheruvu Elachuru village
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19 Devara Konda Kotaiah
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21 Meda Vedukondaly
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22 Vabhani Veeranjaneyulu
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23 Vabbani Kotaiah
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27 Maguluri Kondalu
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28 Vusarthi Koteswar Rao
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31 Kancherla Venkateswarlu
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32 Polaparthi Nageswar Rao
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33 Rachuri Nageswar Rao
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34 Rollepu Munnaiah
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35 Rachuri Bavoji
R/o. Vellacheruvu Elachuru village

Sanathamaguluru Mandal Prakasahm Dist
36 Illa Polaiah
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37 Illa Anamaiah
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38 Kalasiri Ankaiah
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39 Chalamacherla Koteswar Rao
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40 Kalli Guravaiah
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41 Komaragiri Kondalu
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42 Chalamecharla Subba Rao
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43 Tadapala Ankaiah
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45 Kancherla Kondaiah
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46 Nalluri Veeraiah
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47 Vadavalli Seshaiay
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49 Vadavalli Kondalu
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50 Vadavalli Anjaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
51 Vobbani Krishnaiah
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Sanathamaguluru Mandal Prakasahm Dist
52 Vobbani Brahmaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
53 Vedavalli Shiva
R/o. Vellacheruvu Elachuru village

Sanathamaguluru Mandal Prakasahm Dist
54 Maguluri Koteswara Rao
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55 Vusarthi Venkateswarlu
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56 Talapala Tirupathaiah
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57 Talapal Koteswar Rao
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58 Vabbani Mogalaiah
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63 Katti Kondamma
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Sanathamaguluru Mandal Prakasahm Dist
64 Lakkapogu Prakasam
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
65 The Commissioner of Fisheries Govt. of A.P.,
Gaganmahal, Hyderabad
66 The Asst. Director of Fisheries Ongole,

Prakasam Dist
67 Vallalacheruvu Fishermen Coop. Society
Vellalacheruvu Sanatamaguluru Mandal rep.by its
Person Incharge, Asst. Director of Fisheries,
Ongole, Prakasam District
68 Gottipati Narasaiah MLA, Marturu
Prakasam Dist

.....RESPONDENT(S)

Counsel for the Appellants:MR.Y.SUBBHA REDDY

Counsel for the Respondents 1 to 64: MR.O.MANOHER REDDY

Counsel for the Respondents 65 to 67: G.P. for Fisheries

Counsel for the Respondent No.68: none appeared.

W,P.NO.14723 OF 2000

BETWEEN

1 Meda Anjaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
2 Angalakudili Koteswar Rao
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64 Lakkapogu Prakasam
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist

:Petitioners

AND

1. Government of Andhra Pradesh, Animal

Husbandry, Dairy Development and Fisheries Fish
II,Department,Secretariat, Hyderabad, rep. By its
Prl.Secretary.

2. The Commissioner of Fisheries Govt. of A.P.,
Gaganmahal, Hyderabad

3. The Asst. Director of Fisheries Ongole,

Prakasam Dist
4. Vallalacheruvu Fishermen Coop. Society
Vellalacheruvu Sanatamaguluru Mandal rep.by its
Person Incharge, Asst. Director of Fisheries,
Ongole, Prakasam District
5. Kakumanu Rayelu S/o. Pitchaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

6. Tummuri Kosteswara Rao, s/o Veera Swamy,R/oEluchuru village, Samathamuguluru mandal,Prakasam Dt.
7. Manikala Sivaiah S/o. Anjaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
8. Chalamacherla Bhaskara Rao S/o. Musalaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
9. Chevuturi Gopaiah S/o. Bulleyya
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
10 Palappu Kondaly S/o. Nagulu
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
11 Challuri Chinakotaiah S/o. Peda Kotaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

12 Alladi Chinakotaiah S/o. Kotaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

13 Kocherla Chinnaiah S/o. Kotaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

14 Gudipudi Venkateswarlu S/o. Sangeetharao
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
15 Salluri Venkatapathi S/o. Subbaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
16 Obbani Nagaiah S/o. Anjaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
17 Chella Ramanaiah S/o. Nagaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
18 Chella Yogaiah S/o. Nagaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
19 Bathula Veeranjaneyulu S/o. Venkateswarlu
R/o. Elchuru Village Samathamuguluru Mandal

Prakasam District
20 Salluri Nageswar Rao S/o. Rama Subbaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
21 Nakka Yesobu S/o. Mark
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
22 Salluri Prabhudas S/o. Pedavenkaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
23 Jirra Devaiah S/o. Venkataiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
24 Manda Chinna Nagaiah S/o. Lingaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
25 Gaddala Anandarao S/o. Samuel
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
26 Kalava Santhaiah S/o. Pollaiah
R/o. Elchuru Village Samathamuguluru Mandal
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27 Salluri Peda Ramaiah S/o. Pedda Kotaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
28 Mitta Peda Narasimham S/o. Balanarasu
R/o. Elchuru Village Samathamuguluru Mandal
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29 Alladi Kotaiah S/o. Chinnaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
30 Alladi Nagaiah S/o. Ramaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
31 Puriparthi Tulasaiah S/o. Venkataswamy
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
32 Challa Thirupalu S/o. Venkata Kotaiah
R/o. Elchuru Village Samathamuguluru Mandal
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33 Chella Kondaiah S/o. Venkaiah
R/o. Elchuru Village Samathamuguluru Mandal
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34 Kunchaly Kotaiah S/o. Venkaiah
R/o. Elchuru Village Samathamuguluru Mandal
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35 Kunchalu Venkaiah S/o. Kotaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
36 Challa Srinu S/o. Yogaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
37 Kunchala Kondaiah S/o. Mastan

R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

38 Kunchala Venkateswarlu S/o. Venkaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

39 Kunchala Kotaiah S/o. Venkaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

40 Kunchala Babu S/o. Basavaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

41 Shaik Inimalla Moulali S/o. Mohiuddin
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

42 Shaik Chinna Bude S/o. Dariya Hussain
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

43 Shaik Mastan Vali S/o. Moullai
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

44 Machavaram Subbaiah S/o. Brahmaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

45 Challa Govindarajulu S/o. Venkaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

46 Mamidala Nageswara Rao S/o. Chinnaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

47 Shaik Enimella Bade Sayeb S/o. Dariya Hussain
R/o. Elchuru Village Samathamuguluru Mandal
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48 Kunchala Ramaiah S/o. Pitchaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

49 Bathula Venkataswamy S/o. Yelamanda
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

50 Mamidala Tripuraiah S/o. Chennaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

51 Nipputuri China Venkateswarlu S/o. Peddaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

52 Kalva China Lingaiah S/o. Pedamastan
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

53 Madipalli Mohan Rao S/o. Venkaiah
R/o. Elchuru Village Samathamuguluru Mandal
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54 Manda Yesu S/o. China Nagaiah
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55 Manda Mastan S/o. Pitchaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
56 Pallepagu Papaiah S/o. Alapitchaiah
R/o. Elchuru Village Samathamuguluru Mandal
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57 Chalamacherla Musalaiah S/o. Akulu
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R/o. Elchuru Village Samathamuguluru Mandal

Prakasam District
73 Venkatagiri Venkateswarlu S/o. Subbaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
74 Yatagiri Subrahmanyam S/o. Venkateswarlu
R/o. Elchuru Village Samathamuguluru Mandal

..Respondents

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Certiorari or any other appropriate writ or direction calling for the records relating to theorder of the 1st respondent passed in G.O.Rt.No.138 dated 27 th July,2000 and set aside the same.

Counsel for the Petitioners: MR.M.BRAHMA REDDY

Counsel for the Respondents 1 to 4.: G.P. For Fisheries

Counsel for the Respondents 5 to 74:Y.Subba Reddy

L.P.A.(S.R.)NO.63707 OF 1999.

(Letters Patent Appeal Under Sections 10 to 12 of Contempt of Court Act against the Order dated 17/08/1999 in C.C.No.765 of 1998 on the file of the High Court.)

Between:

1 Kakumanu Rayelu S/o. Pitchaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
2. Manikala Sivaiah S/o. Anjaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
3 Chalamacherla Bhaskara Rao S/o. Musalaiah
R/o. Elchuru Village Samathamuguluru Mandal
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Prakasam District

70 Thummuri Koteswara Rao S/o. Veeraswamy
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District

..... APPELLANTS

AND

1.Vallalacheruvu fishermen cooperative society
rep. By its President, Angalakudithi Koteswara Rao,
Vellalacheruvu mandal,Prakasam dt.

2.Meda Anjaiah, Ex Director & Secretary of the
Vallalacheruvu Fishermen cooperative society
Elchuru,Santhamaguluru mandal,Prakasamdt.

3.L.Koti Reddy,Ast.Director of Fisheries,Ongole
Prakasam dt.

……..**RESPONDENTS**

Counsel for the appellants: Mr.Y.Subba Reddy

Counsel for the respondents: G.P. for fisheries

W.A.(S.R.)NO.41012 OF 2000

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 18-04-2000 IN W.P.NO.: 36673 OF 1998 on the file of the High Court.)

Between:

1 Kakumanu Rayelu S/o. Pitchaiah
R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District
2. Manikala Sivaiah S/o. Anjaiah
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R/o. Elchuru Village Samathamuguluru Mandal
Prakasam District **..... APPELLANTS**

AND

1 Meda Anjaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
2 Angalakudili Koteswar Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
3 Shaik Gali Saheb
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
4 Indla Ramulu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
5 Angalakudeti Bavoji
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
6 Meda Edukondalu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
7 Podili Chinna Kondelu
R/o. Vellacheruvu Elachuru village
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9 Rachuri Veeranjaneyulu
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10 Ganienarai Koteswar Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
11 Angalekudili Sayulu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
12 Vallepu Kondal

R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
13 Kumba Yellamanda
R/o.Vellacheruvu Elachuru
village Sanathamaguluru Mandal Prakasahm Dist
14 Vallepu Yedikondalu
R/o. Vellacheruvu Elachuru village
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15 Vallepu Subba Rao
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R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
31 Kancherla Venkateswarlu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
32 Polaparthi Nageswar Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
33 Rachuri Nageswar Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
34 Rollepu Munnaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
35 Rachuri Bavoji
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
36 Illa Polaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
37 Illa Anamaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
38 Kalasiri Ankaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
39 Chalamacherla Koteswar Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
40 Kalli Guravaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
41 Komaragiri Kondalu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
42 Chalamecharla Subba Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
43 Tadapala Ankaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
44 Tadapala Kondaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
45 Kancherla Kondaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
46 Nalluri Veeraiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
47 Vadavalli Seshaiay
R/o. Vellacheruvu Elachuru village

Sanathamaguluru Mandal Prakasahm Dist
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
49 Vadavalli Kondalu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
50 Vadavalli Anjaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
51 Vobbani Krishnaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
52 Vobbani Brahmaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
53 Vedavalli Shiva
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
54 Maguluri Koteswara Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
55 Vusarthi Venkateswarlu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
56 Talapala Tirupathaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
57 Talapal Koteswar Rao
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
58 Vabbani Mogalaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
59 Chalamacherla Sreenu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
60 Vabbani Sreenu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
61 Rachuru Sreenu
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
62 Challacherla Galaiah
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
63 Katti Kondamma
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
64 Lakkapogy Prakasam
R/o. Vellacheruvu Elachuru village
Sanathamaguluru Mandal Prakasahm Dist
65 The Eluchuru Grama Panchayat rep. By
its Sarpanch,Santamaguluru mandal

Prakasam dt.

66 District Collector,Pt.Wing, Prakasam district, Ongole.

67 District Panchayat Officer,Ongole, Prakasam dt.

..**RESPONDENTS**

Counsel for the appellants: Mr.Y.Subba Reddy

Counsel for the respondents 1 to 64: .Manohar Reddy

Counsel for the respondents 65 to 67: G.P. for Panchayatraj

COMMON JUDGMENT: (Per BRSR,J)

This batch of cases may be disposed of by a common judgment since the subject matter that arises for consideration in all of them is one and the same and interconnected.

Although volumes of pleadings and documents are filed by the parties, we shall notice only relevant facts, which we could retrieve with great difficulty with the active assistance of the counsel appearing on behalf of the parties.

W.A. Nos.131 & 1627 of 1999

& W.P. No.14273 of 2000

The disputes centres around the core question relating to the admission and enrolment of the appellants as members in to the Fishermen

Co-operative Society, Vellalacheruvu (for short 'the society').

The society was registered under the provisions of Andhra Pradesh Co-operative Societies Act, 1964, (for short 'the Act') on 20-04-1989 with 21 Fishermen as its members. The water sources are situated in the villages of (1) Vellalacheruvu (2) Adivipalem; and (3) Elchuru. They were included in the area of operation of the society.

The society has admitted (6) more members on 08-05-1989 and further (50) members on 17-01-1991 respectively and its total strength increased to (77) members. The activities of the society for the purpose for which it was found, appears to have hardly continued for a period of (5) or (6) years. Thereafter, an internecine war began between two individuals with a view to gain control over the activities of the society. Each made an attempt to over reach the other and in the process members who joined the society to eke out their livelihood by carrying their profession of fishing were caught in the cross fire. They became helpless victims in the hands of warring groups and some of them have even become parties to the dispute led by the two individuals. Neither of them has acted in the interest of the society and its members. It was a clash of egos that ultimately resulted in bitter power struggle to gain control over the society.

The elections to the managing committee of the society were held on 05-05-1994. One Shaik Masthan was elected as its president, Meda Anjaiah as its Secretary and 7 others as its Managing Committee members. The term of the managing committee expired on 04-05-1997.

On the basis of the complaints, an enquiry under Section 51 of the Act was held

and certain defects were noticed in functioning of the society. The Commissioner of Fisheries vide proceedings, dated
09-07-1993, directed the Assistant Director of Fisheries, Ongole, to take immediate action for rectification of the defects that were noticed in the enquiry held under Section 51 of the Act. The Assistant Director of Fisheries issued proceedings, dated 04-07-1995, directing the society to remove
(9) members from the society that included Shaik Masthan, President of the society. That a general body meeting was held on 21-07-1995 and pursuant to the report and the directions issued, referred to herein above, all the (9) members including the president were removed from the membership of the society. Thereafter, one Angalakudili Koteswara Rao
(2nd petitioner in W.P. No. 14273 of 2000) who was the Vice President was elected as President of the society on 25-11-1996. This has led to a no holds bar battle between two groups. The society became the battleground virtually resulting in brakedown of all legitimate activities of the society. The society practically went into coma. The rival groups having successfully reduced the society into shamble commenced their journey to this Court by filing spate of writ petitions, writ appeals and miscellaneous applications etc.

On the allegations that Shaik Masthan even after his removal as the president of the society maintained parallel records illegally, the Additional Director of Fisheries vide his order, dated 23-05-1996, directed seizure of the records maintained by Shaik Masthan. On the representation of Shaik Masthan, the Director of Fisheries kept the order in abeyance vide order, dated 04-06-1996. That some officers who are entrusted with the duties to oversee the proper management and functioning of the society, so that it continue to cater the

needs of vulnerable sections of the society, themselves acted not in the manner expected of them. The group opposed to Shaik Masthan filed W.P. No. 10816 of 1996 challenging the proceedings of the Director of Fisheries, dated 04-06-1996, in keeping the earlier proceedings, dated 23-05-1996, under abeyance. In the meanwhile the term of the managing committee of the society expired on 04-05-1997, the person-in-charge of the society has issued election notification proposing to hold the elections. The same group filed W.P. No.8326 of 1997 challenging the election notification on the ground that the elections were sought to be held on the basis of concocted records submitted by Shaik Masthan who was removed from the membership of the society on 21-07-1995. A.Koteswara Rao insisted that the records maintained by him as president of the society should be taken into consideration for preparing the voters list and holding the elections accordingly. The same group headed by A.Koteswara Rao filed W.P. No. 10810 of 1997 seeking appropriate directions against the authorities to consider their case for appointment as members of the managing committee of the society. In the meanwhile the Government appointed, Assistant Director of Fisheries as person-in-charge under Section 32(7)(a) of the Act and the same was challenged by the same group in W.P. No. 16880 of 1998.

That all the writ petitions were disposed of by a common order, dated 16-07-1998. The learned single Judge took the view that Shaik Masthan continued to be in office till the term of the managing committee of the society expired on 04-05-1997. The removal of Shaik Masthan from the post of president was not in accordance with the provisions of the Act. The learned single Judge accordingly upheld the memo, dated 04-06-1996, of the Director of Fisheries keeping the proceedings, dated 23-05-1996, in abeyance. The learned single Judge, however, left it open to the Registrar to take de novo steps to disqualify

Shaik Masthan and 8 others from the membership of the society on the basis of the findings recorded in the enquiry report conducted under Section 51 of the Act, in accordance with law 'and in the light of the observations made in the order after providing due opportunity to all the concerned. The learned single Judge also rejected the request of the group lead by A. Koteswara Rao to hold the elections only on the basis of the records and particulars submitted by him. The learned Judge held that A. Koteswara Rao was not legally elected president of the society since the removal of the elected president Shaik Masthan was not in accordance with law. It was held that the official respondents are required to proceed to hold the elections of the managing committee of the society after obtaining necessary and relevant records of the society "from the custodian of the records and hold elections". The writ appeals preferred against the common judgment rendered by the learned single Judge was disposed of by a Division Bench in the following manner:

> "The focal point for consideration is in regard to the order of the Animal Husbandry and Fisheries Department, Government of Andhra Pradesh, dated 10-06-1998 in the matter of appointment of the Assistant Director of Fisheries, Prakasham District, as person-in-charge under Section 32(7)(a) of the A.P. Co-operative Societies Act, 1964 so as to manage the affairs of the Vellalacheruvu Fishermen Co-operative Society.
>
> The learned single Judge while dealing with the matter did not find favour with the submissions of Mr. Ramana Reddy, advocate appearing in support of the writ petition that the impugned order is otherwise untenable and bad in law.
>
> On the factual matrix there are some admitted set of facts viz., firstly, the term of the Managing Committee has expired w.e.f. 04-5-1997. Secondly, the facts depict that nine members of the Co-operative Society, including Sk. Masthan were removed from the membership of the society. Thirdly, the Managing Committee on 23-9-1995 passed a resolution resolving to return the share capital to the nine members and remove them from the primary membership of the Society. Fourthly, on 25-9-1997 a formal removal order against those nine members was passed and fifthly, the General Body also on 25-10-1995 did ratify the action taken by the Managing Committee in removing the nine members, including Sk. Masthan from the primary membership of the Society.

It is this expulsion of Sk. Masthan from the primary membership of the Society which did not find favour with the learned single Judge by reason wherefor there has been a finding recorded in the judgment under appeal to the effect that this expulsion is not in accordance with law.

Be that as it may, the main thrust of the submissions of Mr. Ramana Reddy, appearing in support of the appeals is that the order dated 10-6-1998 as passed, cannot be said to be in accordance with law and sustainable by reason of the recommendations of the Commissioner of Fisheries. It is significant to note that the Commissioner of Fisheries by his recommendations dated 05-5-1998, recorded as follows:

"The following five names are hereby recommended for appointment as non-official persons-in-charge from 20-2-1998 till the disposal of the above suits or elections are held, whichever is earlier.

1) Sri Meda Anjaiah - Chairman

2] Sri Sk. Gali Saheb - Person Incharge

3) Sri Podili China Kondaiah-Person Incharge
4) Sri Angalakuditi Bavoji - Person Incharge

5) Sri India Ramulu - Person Incharge."

The State Government, however, upon consideration of the facts did pass an order appointing the Assistant Director of Fisheries as Person-in-Charge to conduct the affairs of the Co-operative Society for a period of six months from 10-6-1998 or till the elections are conducted and elected committee assumes charge, whichever is earlier and since this order did not find favour with the petitioners, a writ petition was moved, which, however, stand dismissed by the order of the learned single Judge and hence the appeal.

Incidentally be it noted that during the course of submissions in support of the appeal political motivation has been attributed in the matter of passing of the impugned order. We, however, do not find any factual support for such a submission, As such, we need not detain ourselves on that score.

The fact remains, however, that the term of the Managing Committee has expired and elections ought to take place with utmost expedition. The State Government thought it fit to appoint the Assistant Director of Fisheries as Person-in-Charge to manage the affairs till such time elected body takes charge. There is also a time limit for six months with a categorical recording that the validity of the order would be for a period of six months or until such time election takes place, whichever is earlier. The expression "whichever is earlier" connote the definite intention of the governmental authority and negates any motive and as such we do not see any reason to interfere with such an order. It is true that the recommendations of the Commissioner of Fisheries have not been accepted, but that does not by itself render the order a nullity or void or illegal since the Government is the ultimate authority as

regards the management of the Society. It is now a well settled principle of law that an elected member holding tenure for a fixed period, cannot continue to act as such, after the expiry of the tenure and as such, the Government cannot be said to be bound by such recommendations. The Commissioner of Fisheries is only a recommendatory authority. His orders are not binding on the State Government, and in that view of the matter, the action of the Government in the matter of appointment of the Assistant Director of Fisheries cannot, unless some cogent reasons are forthcoming, be said to be illegal. Unfortunately, on the factual score, no such reasons are available. We thus, do not see any reason to interfere with such a finding. The Bench decision of this Court in the case of B. KOTA MALLAIAH v. COMMISSIONER AND REGISTRAR (1991 (3) ALT 433), in our view, does not render much of an assistance to Mr. Ramana Reddy in support of his contention that once there is such a recommendation, question of placement of any other person as in-charge of the affairs of the Society does not arise. As a matter of fact, Mr. Ramana Reddy, has commented on the order of the learned single Judge to the effect that he is otherwise bound by a Bench decision of this Court. While there cannot possibly be any dispute as regards the binding nature of the Bench decisions, but, the fact remains that the decision noted above does not have any such binding observations so as to bind the learned single Judge by the decision.

On the wake of the reasonings given above, the writ appeals fail and they are dismissed. To subserve the ends of justice, however, we hereby direct the Registrar of Co-operative Societies to look into the affairs of the Society upon obtaining suitable report from the Assistant Director of Fisheries. The persons said to have been removed would be at liberty to apply before the Registrar for appropriate orders, and the Registrar is directed to consider the same in accordance with law upon affording opportunity of hearing to the parties, including the writ petitioner, within a period of four weeks from the date hereof, and thereafter take all necessary steps including intimation to the Collector for completion of the elections in accordance with law with utmost expedition. There shall, however, be no order as to costs".

The S.L.Ps. filed against the said order were dismissed as withdrawn on 30-11-1998.

ISSUE ABOUT MEMBERSHIP:

The Assistant Director of Fisheries, Ongole, vide proceedings, dated 11-11-1996, having received the applications/ representations, through Shaik Masthan, in his capacity as the president of the society, for admission of members in to the society accorded permission to the society to admit 72

individuals as members as per the list in accordance with the provisions under byelaw No.4A of the society. The society was directed to admit the members under proper resolution of the managing committee of the society after duly collecting the share capital and entrance fee and report compliance. Those 72 individuals who were directed to be admitted as members into the society are the appellants in W.A. Nos.1321 & 1627 of 1999 and W.A.(S.R.) No.41012 of 2000. The rival group headed by A. Koteswara Rao and Meda Anjaiah challenged the said proceedings by way of miscellaneous applications in the batch of writ petitions referred to herein above. The learned single Judge dismissed the application on the ground that the petitioners have alternative comprehensive remedy under the Act to air the grievance made in the applications. "Reserving such liberty to the petitioners to assail the action of the 4th respondent in admitting 72 persons as members before the appropriate Forum". That order has become final.

That two other important events are required to be noticed. Pursuant to the directions of the learned single Judge, a revision petition was filed before the Commissioner of Fisheries and Ex-officio Registrar of Co-operative Societies, A.P., Hyderabad, challenging the proceedings, dated 11-11-1996, of the Assistant Director of Fisheries, Ongole, directing the admission of writ appellants as members into the society. The same was taken on file as an appeal under Section 76(2) of the Act. The Commissioner allowed the appeal on the ground that the records maintained by the society headed by Shaik Masthan has to be held as invalid and the set of records in possession of the society headed by

Meda Anjaiah has to be recognized as original records. This finding of the Commissioner is based upon the judgment rendered by this Court in C.C. No.

765 of 1998; W.P. No. 34994 of 1998 and W.P.M.P. No.9864 of 1999, dated 17-08-1999. The said judgment is the subject matter of
W.A. Nos.1321 & 1627 of 1999; W.A.(S.R.) No.41012 of 2000; W.P. No. 14273 of 2000 and L.P.A.(S.R.) No. 63707 of 1999.

Aggrieved by the said order of the Commissioner, the individuals who were directed to be admitted as members into the society preferred revision petition before the Government and the same was allowed by the Government vide G.O. Rt.
No. 138, dated 27-07-2000. The same is the subject matter of W.P. No. 14723 of 2000.

We are required to notice few more details leading to filing of writ appeals against the order made in W.P. No. 34994 of 1998 by a learned single Judge of this Court. Pursuant to the observations made by this Court while disposing of W.A.
No. 1228 of 1998 & batch, giving liberty to the Registrar of Co-operative Societies to look into the affairs of the society, an enquiry was held and
9 members of the society including Shaik Masthan were removed vide proceedings, dated 19-11-1998, and the same has become final. Shaik Masthan and 8 other members were validly removed only on 19-11-1998 under the proceedings of the Registrar.

That after the order of removal, the group headed by "Koteswara Rao and Meda Anjaiah, filed W.P. No.34994 of 1998 on 16-12-1998, inter alia contending that the Secretary of the Society alone is the custodian of the records and the records maintained by Meda Anjaiah in his capacity as Secretary of the society

were required to be taken into consideration for conducting the elections. The writ petition was filed alleging that in spite of making series of representations, the Commissioner of Fisheries/Registrar of the

Co-operative Society, did not take any action to receive the records from the custody of the Secretary. The action in not taking the records for conducting the elections to the managing committee of the society according to the averments was not legal and proper. The relief that was prayed for in the writ petition was to declare the action of the authorities in not taking the records from the Secretary(Meda Anjaiah) of the society as illegal. This writ petition was taken up along with another contempt case arising out of the order passed by the learned single Judge of this Court, regarding the grant of lease of fishing rights for the year 1996-97. The learned single Judge while disposing of the writ petition together with a contempt case made certain observations contrary to the ratio of the decision in W.P. No. 10816 of 1996 and batch, disposed of by another learned single Judge of this Court. These observations were taken into consideration by the Commissioner of Fisheries/Ex-Officio Registrar of Cooperative Societies, Hyderabad, while disposing of the lis relating to the validity of enrolment of writ appellants as members of the society. That is how, the writ appeals preferred against the order in W.P. Nol4273 of 2000 and

C.C. No.765 of 1998 are before us for our decision. The decision of the Government in reversing the order passed by the Commissioner and upholding the enrolment of the writ appellants as the members of the society is the subject matter in

W.P. No. 14273 of 2000.

Sri Y. Subba Reddy, learned counsel for the appellant, strenuously contended that learned single Judge committed grave error in making observations adversely affecting the rights of the appellants for being continued as members

of the society. The submission was that the question whether the appellants were properly enrolled as members into the society was not the subject matter of the issue that had fallen for consideration before the learned single Judge in the writ petition. It was also contended that the observations made by the learned single Judge that Shaik Masthan was not eligible to maintain any records as he was removed from the membership of the society on 19-11-1998, is totally unsustainable for the same reason that the issue had not fallen for consideration and in fact the issue was conclusively decided by another learned single Judge in the decision rendered in W.P. No. 10816 of 1996 and batch, dated 16-07-1998, which ultimately received the affirmation in the hands of the Supreme Court. The learned counsel pointed out certain observations made in the order against the learned single Judge, which according to him are very uncharitable and uncalled for. The learned counsel contended that comity and judicial discipline requires restraint in making comments against the Judges and Judgments.

Sri E. Manohar, learned senior counsel, with his usual fairness submitted that it was not necessary for the learned Judge to make any comments about the judgment rendered by another learned single Judge of this Court. It was also submitted that the question as to whether the appellants were properly enrolled as members of the society or not, is not the subject matter of debate in the writ petition before the learned single Judge. Learned senior counsel, however, contended that the admission of the appellants into the society as members is not in accordance with law. Learned senior counsel submitted that byelaw No.5A of the society requires individuals who intend to join as members in the society to make an application to the Secretary in the prescribed form and in the instant case, the appellants admittedly did not follow such procedure and therefore they cannot be treated as valid members. Learned senior counsel

submitted that the order of the Government is totally vague and indefinite and therefore unsustainable in law. The revisional order does not reveal any cogent reason for reversing the well-considered order passed by the Commissioner and therefore deserves to be set aside.

The core question that falls for consideration is whether the enrolment of the writ appellants as members into the Fishermen Co-operative Society is valid ?

We have already noticed that the learned single Judge while disposing of the writ petitions filed by

A. Koteswara Rao and Meda Anjaiah, did not go into the question as to the validity of the proceedings, dated 11-11-1996, of the Assistant Director of Fisheries, Ongole, directing the admission of the writ appellants as members into the society in accordance with the provisions under byelaw No.4A of the Society. The applications were obviously forwarded by Shaik Masthan in his capacity as the President of the society. The learned Judge left the question open to be agitated in a properly constituted proceedings by availing the remedy available under the provisions of the Act. The respondents in writ appeal/the petitioners in writ petition, rightly approached the Commissioner of Fisheries/Registrar of Cooperative Societies, challenging the legality and correctness of the order of the Assistant Director of Fisheries, dated 11-11-1996. The Commissioner instead of considering the question as to whether they were validly enrolled as members into the society, mainly concentrated on the question as to whether Shaik Masthan was the president of the society as on the date when he forwarded the applications of the writ appellants to the Assistant Director of Fisheries for being enrolled as members into the society. In the process, the Commissioner came under heavy influence of the orders

passed by this Court in W.P. No.34994 of 1998 and C.C. No.765 of 1998 wherein it was held that the question "admitting any members by Shaik Masthan on 14-11-1996 does not arise. Further, though it is alleged that on 14-11-1996, the managing committee headed by Shaik Masthan adopted a resolution admitting them as members of the society, the Assistant Director has given him permission to admit them as members of the society on 11-11-1996, by which time this Court recorded a finding that the society headed by A. Koteswara Rao, is entitled for the lease of fishing rights in the tank in question, after adverting to the various commissions and omissions committed by Shaik Masthan and the Assistant Director is a party to this order". It is no doubt true, in the order under appeal, the learned Judge held that the appellants were not admitted "by the real society in accordance with law and on the other hand Shaik Masthan with the help of the Assistant Director, manipulated the record to gain control over the affairs of the society by using dubious methods." These observations run counter and contrary to the decision of another learned single Judge rendered in W.P. No.34494 of 1998 & batch whereunder the learned Judge took the view that the removal of Shaik Masthan was not in accordance with law and he continued in the office as the president of the society until the term of the managing committee of the society came to an end by 04-05-1997. The very order passed by the Commissioner on 19-11-1998, which remains unchallenged, reveals that Shaik Masthan and

(8) other members were removed from the membership of the Fishermen Co-operative Society and were disqualified "to be continued as members of the Fishermen Co-operative Society, Vellalacheruvu." The Director of Fisheries accordingly directed the person-in-charge to take immediate action for removal of ineligible members from their membership of the society and pass necessary resolution in the minutes book of the society for their removal and also refund of the share capital standing to their credit. The order, dated 19-11-1998,

passed by the Director of Fisheries, pursuant to the observations made by this Court in W.A. Nos.1228 of 1998 & batch cannot be given any retrospective operation. Shaik Masthan and (8) other members shall be deemed to have been removed from their membership only with effect from 19-11-1998.

In such view of the matter, we find it difficult to sustain the observations and conclusion reached by the learned single Judge holding that the appellants were not admitted by the real society in accordance with law and Shaik Masthan manipulated the records to gain the control over the affairs of the society by using dubious methods. The question whether the appellants herein were enrolled properly as members of the society had never fallen for consideration before the learned single Judge. The findings and conclusions so recorded in the absence of any pleadings cannot be sustained.

Be it as it may, we are constrained to notice that the learned Judge dismissed the miscellaneous applications filed by the appellants herein to implead themselves as party respondents in their capacity as members of the society. The learned Judge having dismissed the application and having held that they are neither proper nor necessary parties to the writ petition, proceeded to observe that they were not properly enrolled as members into the society. In our considered opinion, such a course is not open for this Court as it amounts to deciding the matter without providing an opportunity of being heard. It was totally unnecessary to go into the question as to the validity of enrolment of the appellants as members into the society. The findings recorded by the Director of Fisheries/Registrar of

Co-operative Societies, which are obviously under the influence of the

observations made by the learned single Judge in the judgment under appeal are untenable and unsustainable.

While finding fault with the order passed by the Director of Fisheries, we cannot uphold the order of he revisional authority in reversing the decision of the Director of Fisheries/Registrar of
Co-operative Societies. The revisional authority also never adverted to the question, whether the appellants herein were enrolled properly as members into the society. The revisional authority proceeded on the ground that Shaik Masthan was the president of the society from 05-05-1994 to
04-05-1997 and as per the provisions of the Act, the president has to maintain the books relating to the said society and therefore admission of
72 members was made by the president duly following the procedure as laid down by the managing committee.

What is the procedure adopted by the President?

Was there any resolution passed by the managing committee duly admitting the appellants as members into the society as directed by the Assistant Director of Fisheries vide order, dated
11-11-1996?

There are no findings recorded by the revisional authority on this crucial aspect of the matter.

Yet another aspect of the matter, the membership of the society depends upon

the water-spread area available to the society. The Collector, Ongole, was addressed by the Registrar/Director of Fisheries, vide letter, dated 26-10-1998, in response to which the Revenue Divisional Officer stated that the water-spread area available to the society is about Acs.346-35 cents which is equivalent to 138-54 hectares. This was seriously challenged by the writ petitioners on the ground that such report was submitted without surveying the water bodies and without any prior intimation to them by colluding with the Sarpanch of Vellalacheruvu and Shaik Masthan, Ex-president of the society. That according to them, the water-spread area was assessed to suit the claim of the appellants. The Collector, Prakasham District, was once again requested to send detailed report and the Collector reiterated the Revenue Divisional Officer report, wherein he stated that it was based on the survey conducted in the year 1920. During the course of hearing, both the parties requested the Registrar to

refer the matter back to the Collector once again for proper report regarding the water-spread area, as it is crucial to consider the question relating to admission of additional members into the society. The Collector was once again addressed by letter dated 26-06-1999 to conduct survey of the water bodies under the lease to the society with prior intimation to the parties as the previous report was done behind their back. The Collector's report is still awaited, but the Registrar had chosen to dispose of the appeal in the light of the directions of this Court to dispose of the case without waiting for any further report or without reference to any Court's restraint order. We too have made our own contribution to the prevailing confusion. The fact remains that, as on today, there is no fresh survey of the water-spread areas and any report thereof. The Government also did not refer to this aspect of the matter in its revisional order.

In our considered opinion, the whole of the order passed by the Commissioner is vitiated for the reason that the conclusions are based on the observations made by the learned single Judge in the order under appeal. We have already indicated that those observations are totally beyond the scope of the writ petition. The conclusions arrived at by the learned Judge that the appellants were not properly enrolled, as members into the society are unsustainable for the reason that the issue relating to the membership was never put in issue in the said writ petition. The Commissioner as directed by this court in earlier proceedings was bound to decide the matter uninfluenced by the observations made in any of the orders passed by this Court for the simple reason that the question relating to the validity of enrolment of appellants as members into the society had never fallen for consideration and in fact the question was left open.

So far as the case of individuals who have been enrolled as members into the society by the managing committee headed by A. Koteswara Rao from time to time is concerned, the same is stated to be the subject matter of another appeal/ representation before the authorities concerned. In such view of the matter, this order of ours shall have no bearing upon the decision to be taken by the authorities concerned so far as their claim for membership is concerned. The matter has to be disposed of on its own merits.

For the aforesaid reasons, the order, dated
07-03-2000 passed by the Commissioner of Fisheries/Registrar of Co-operative Societies as well as G.O. Rt. No. 138, dated 27-07-2000 of the Government are hereby set aside. The matter is remitted for consideration by the Director of Fishermen Co-operative Societies, in accordance with law.

The Commissioner /Director of Fisheries is now required to consider the question as to whether the appellants in the writ appeal were properly admitted as members into the society by duly taking into consideration whether their application for admission into the society was in accordance with the byelaws and the provisions of the Act. It is needless to observe that the Director of Fisheries/Registrar of Co-operative Societies, shall bear in mind the provisions of the Act relating to eligibility for membership and the procedure prescribed for admission of individuals as members into the society as well as the byelaws of the society as existed at the relevant time when the Assistant Director issued directions to admit the appellants as members into the society. The Registrar is required to go into the question, whether any proper resolution of the managing committee has been passed to admit the appellants as members into the society. Whether share capital and entrance fee has been collected or not is also required to be gone into by the Registrar.

The Director of Fisheries/ Registrar of Co-operative Societies, is further required to go into the question as to whether water-spread area permits and accommodates the admission of additional members into the society and the District Collector to submit report after a fresh survey under his supervision with due notice to all the parties concerned and such report shall be duly taken into consideration in order to decide whether the available water spread area permits enrolment of additional members into the society. An appropriate decision in this regard shall be taken within a period of four months from the date of receipt of a copy of this order.

The writ appeals and the writ petition are accordingly allowed to the extent

indicated. Each party shall bear their own costs.

L.P.A.(SR) No.63707 of 1999:

L.P.A.(SR) preferred against the order in C.C. No.765 of 1998 shall stand disposed of as requiring no further adjudication. The observations made in the order which are not in conformity with our order shall be deemed to have been set aside.

W.A.(SR) No.41012 of 2000:

This writ appeal is preferred against the orders permitting the respondents/writ petitioners to deposit Rs.2.00 lakhs in order to enable the catching of fish fly by the members of the society headed by A. Koteswara Rao. This Court vide its order, dated 02-05-2000, directed the status-quo to be maintained existing as on that day. The question of catching fish at this point of time does not arise and the issue itself relates to leasing out fishing rights in the tank situated at Elchuru for the year 1997-98. It is under those circumstances, Sri Y. Subba Reddy, learned counsel for the appellant, submits that no further directions as such are required to be issued in this appeal.

The Writ Appeal shall accordingly stand dismissed. No order as to costs.

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B. SUDERSHAN REDDY, J

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GHULAM MOHAMMED, J

Date:12TH JULY, 2004.

PV.

To

1. The Commissioner of Fisheries Govt. of A.P.,
Gaganmahal, Hyderabad

2. The Asst. Director of Fisheries Ongole,

Prakasam Dist

3. Vallalacheruvu Fishermen Coop. Society
Vellalacheruvu Sanatamaguluru Mandal rep.by its
Person Incharge, Asst. Director of Fisheries,
Ongole, Prakasam District

4. The Eluchuru Grama Panchayat rep. By
its Sarpanch,Santamaguluru mandal
Prakasam dt.

5. District Collector,Pt.Wing, Prakasam
district, Ongole.

6. District Panchayat Officer,Ongole,
Prakasam dt.

7. 2 C.Cs to G.P. for Fishers, High Court buildings,

Hyderabad (OUT)

8. 2 C.Cs to G.P. for Panchayatraj,High Court
buildings,Hyderabad (OUT)

9. The Principle Secretary,

Government of Andhra Pradesh,

Animal Husbandry,

Dairy Development & Fisheries Fish II Department,

Secretariat, Hyderabad.

10. 2 C.D copies.